IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 18 of 2005 (S/B)

Smt. Basanti Rautela,
W/o Sri R.S. Rautela,
C/o Sri Harish Singh Rautela,
R/o Cheena House Compound,
Shervani Lodge, Mallital,
District Nainital …….. Petitioner

Versus

1. Public Service Commission Uttaranchal,
   Post Office Gurukul Kangri,
   Distt. Haridwar through its Secretary
2. Controller of Examination,
   Public Service Commission

…… Respondents

Mr. Sharad Sharma, Advocate for the petitioner.
Mr. B.D. Kandpal, Standing Counsel for respondent No. 1.

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. Prafulla C. Pant, J.

(Per Hon'ble the Chief Justice)

1. Heard Mr. Sharad Sharma, Advocate appearing on behalf of the petitioner and Mr. B.D. Kandpal, Advocate appearing on behalf of respondent No. 1.

2. There was an advertisement issued for Combined State Civil Service Examination (Pre) of 2004. This advertisement was dated 26.12.2004 published in a newspaper called 'Amar Ujala'. The petitioner was desirous of appearing in this examination. In the advertisement, it was pointed out specifically, that the forms would be available in the Post Offices of Almora, Bageshwar, Chamoli, Dehradun, Mussoorie, Haridwar, Nainital etc. the petitioner is a resident of Nainital, she therefore, tried to obtain the forms. But it was found that the forms were not available between 9th to 18th of

January, 2005, probably because all the available forms were sold out and the Public Service Commission, Uttaranchal (hereinafter referred to as the Commission) was not able to supply the forms. Ultimately, she purchased the form and posted it on 22.01.2005, which was received by the Commission on 29.01.2005. However, it was sent back as the last date for the receipt of the form was 27.01.2005. petitioner, therefore, has come up before us, suggesting that it was not because of her own fault that the form did not reach the Commission and that the Commission was duty bound to keep the form available on all the days after the advertisement appear in the newspaper, and, thus, injustice has been done to her in as much she would loose her opportunity to appear in the examination

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3. It is an admitted position that the forms were not available in the Nainital Post Office between 9th to 18th January, 2005. It is also an admitted position that the form was obtained and was sent by registered post on 22.01.2005, which should have reached Haridwar at any rate before 27.01.2005. Unfortunately, it seems that the postal authorities took more than six days to reach the form to Haridwar office of the Commission and, thus the form was rejected.

4. We feel this is a genuine case where the petitioner, for no fault of her, is being unnecessarily put to jeopardy and would loose her chance to appear in the examination. We have issued the notices to the Public Service Commission and Mr. B.D. Kandpal, Standing Counsel on behalf of the Commission says that there are about 1,40,000 forms received by the Commission and that no exception should be done because there is a specific condition put in the advertisement.

5. We have gone through the condition ourselves. However, in the wake of the extra ordinary circumstances, we feel that the difficulty of the petitioner is genuine and she had made all the possible efforts to collect the form and send it within time. The learned counsel for the Commission aggress that if the form is reached

to the Commission by tomorrow i.e. 26.02.2005, the form will be accepted. However, he has a caveat before agreeing, he says that this should not be made a precedent. We will not treat this as a precedent, particularly, in view of the peculiar circumstances involved in this writ petition. If the form does not reach the Commission by 26.02.2005 by 5 O' Clock, the writ petition shall be treated to be dismissed.

(P.C. Pant, J.) **(V.S. Sirpurkar, C.J.)**
25.02.2005 **25.02.2005**

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